

IN RE: PETITION FOR ZONING VARIANCE  
SM/Corner Middleborough and  
Elk Roads  
(1321 Middleborough Road)  
15th Election District  
5th Councilmanic District  
Daniel C. DiPepe  
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit a building to property line setback of 15 feet in lieu of the required 25 feet, a building to street centerline setback of 40 feet in lieu of the required 50 feet, and an amendment to the Final Development Plan of for the resubdivision of a part of lot 275 of "Middleborough", Lot 1-A, a corner lot, in accordance with Petitioner's Exhibit 1.

The Petitioner appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 1821 Middleborough Road, consists of 6,188 sq.ft. zoned D.R. 5.5, located at the corner of Middleborough and Elk Roads, and is improved with a two story single family dwelling. Petitioner testified he and his wife purchased the subject property approximately two years ago at which time they proceeded to have their present home built. Recently Petitioners attempted to refinance the loan they had originally taken on the property and had a location survey done as required by the lender. It was subsequently determined that the subject dwelling had been constructed within the required setback limitations as set forth in the zoning regulations. Petitioners filed the instant Petition in an attempt to rectify the error. Testimony indicated that the granting of the request will not have any

detriment on the health, safety or general welfare of the surrounding community.

After due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is in harmony with the general spirit and intent of

the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 22nd day of February, 1989 that the Petition for Zoning Variance to permit a building to property line setback of 15 feet in lieu of the required 25 feet, a building to street centerline setback

of 40 feet in lieu of the required 50 feet, and an amendment to the Final Development Plan of for the resubdivision of a part of lot 275 of "Middleborough", Lot 1-A, a corner lot, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated December 20, 1988, attached hereto and made a part hereof.

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

ANN:bjs

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1801.2.C., 504.14.B.9.C.M.D.P.1. To allow a building to property line (corner lot) setback of 15 ft. and a building to street centerline setback of 40 ft. in lieu of the required 25 ft. and 50 ft. respectively and to amend the Final Development Plan-Resubdivision of a part of Lot 275 of "Middleborough", Lot No. 1-A for same.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

TO GREAT OF EXPOSURE TO RELOCATE THE HOUSE.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: (Type or Print Name) \_\_\_\_\_  
Signature \_\_\_\_\_  
Address \_\_\_\_\_  
City and State \_\_\_\_\_  
Attorney for Petitioner: (Type or Print Name) \_\_\_\_\_  
Signature \_\_\_\_\_  
Address \_\_\_\_\_  
City and State \_\_\_\_\_  
Attorney's Telephone No.: \_\_\_\_\_

Legal Owner(s):  
DANIEL C. DIPEPE  
(Type or Print Name)  
Signature \_\_\_\_\_  
Address \_\_\_\_\_  
City and State \_\_\_\_\_  
Name, address and phone number of legal owner, contract purchaser or representative to be contacted \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone No. \_\_\_\_\_

ORDERED By The Zoning Commissioner of Baltimore County, this 22nd day of February, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 10th day of February, 1989, at 10:30 o'clock a.m.

(over)

Zoning Description

Beginning at a point on the south west corner of Middleborough and Elk Roads. Being Lot 1-A in the Resubdivision of a part of lot 275 in "Middleborough"; Book No. 59 Folio 39, Also known as 1821 Middleborough Road in the 15th Election District.

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 10th / Variance Date of Posting: 4/25/89  
Posted for: 10 days  
Petitioner: Daniel C. DiPepe  
Location of property: 1821 Middleborough Rd. & Elk Rd.  
Location of Sign: 1821 Middleborough Rd. 10' ft.  
Remarks: 200 sq. ft. property of Baltimore  
Posted by: [Signature] Date of return: 4/27/89  
Number of Signs: 4

CERTIFICATE OF PUBLICATION

TOWSON, MD., January 22, 1989  
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on January 26, 1989.

THE JEFFERSONIAN,

S. Z. Le Orlean

Publisher

PO 09034  
reg H25193  
case 89-315-A  
price \$43.34

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3533

J. Robert Haines  
Zoning Commissioner  
Mr. Daniel L. DiPepe  
1819 Middleborough Road  
Baltimore, Maryland 21221

Re: Petition for Zoning Variance  
CASE NUMBER: 89-315-A  
542 Middleborough & Elk Roads  
1821 Middleborough Road  
15th Election District - 5th Councilmanic  
Petitioner(s): Daniel L. DiPepe  
HEARING SCHEDULED: FRIDAY, FEBRUARY 10, 1989 at 10:30 a.m.

Dear Mr. DiPepe:

Please be advised that \$108.39 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE-REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT  
No. 005001  
DATE: 2/10/89 ACCOUNT: P-01-615-000  
AMOUNT \$ 108.39  
RECEIVED [Signature] 2/10/89  
FOR: P-A  
VALIDATION OR SIGNATURE OF CASHIER  
J. ROBERT HAINES  
Zoning Commissioner  
Baltimore County



89-315-A  
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Your petition has been received and accepted for filing this  
7th day of December, 1988

*J. Robert Haines*  
J. ROBERT HAINES  
ZONING COMMISSIONER

Petitioner: Daniel L. DiPeppe  
Attorney: \_\_\_\_\_  
Received by: James E. Dyer  
Chairman, Zoning Plans  
Advisory Committee

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines  
Zoning Commissioner  
Date: January 31, 1989  
FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning  
SUBJECT: Zoning Petition Nos. 89-316-A (Teitelbaum); 89-320-A (McNaney);  
89-321-A (McNaney); 89-310-A (Grier); 89-313-A (Ellwood);  
89-315-A (DiPeppe)

The Office of Planning and Zoning has no comment on the above listed projects.

PK/ph

RECEIVED  
FEB 2 1989

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines  
Zoning Commissioner  
DATE: December 20, 1988  
FROM: Mr. Robert W. Sheesley  
SUBJECT: DiPeppe Property, 1819 Middleborough Road  
Petition for Zoning Variance - Item #192

RECEIVED  
DEC 23 1988

ZONING OFFICE

Subject property is located at 1819 Middleborough Road. The site is within the Chesapeake Bay Critical Area and is classified as Limited Development Area.

The applicant has requested a zoning variance to allow a building line setback of 40 feet in lieu of the required 25 feet and 50 feet respectively, and to amend the Final Development Plan Resubdivision of a part of lot 215 of "Middleborough", lot No. 1-A for same. The building exists and no new construction is proposed.

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

<COMAR 14.15.10.01 O>

The proposed development will comply with Critical Area law provided that the zoning petition is conditioned with the following requirements:

1. Four major deciduous trees or two conifer trees shall be planted and maintained on the lot. A combination of these two tree types is acceptable provided that 2,000 square feet of tree cover is provided. A major deciduous tree is estimated to cover 1,000 square feet and a conifer, 500 square feet at maturity.

Baltimore County  
Fire Department  
Towson, Maryland 21204  
494-4500

Paul H. Reincke  
Chief

December 29, 1988

J. Robert Haines, Zoning Commissioner  
Office of Planning & Zoning  
Baltimore County Office Building  
Towson, Maryland 21204

Re: Property Owner: Daniel L. DiPeppe

Location: SW/C Middleborough & Elk Roads  
1921 Road

Item No.: 192 Zoning Agenda: Meeting of 12/6/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- ( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or \_\_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- ( ) 2. A second means of vehicle access is required for the site.
- ( ) 3. The vehicle dead end condition shown at \_\_\_\_\_ EXCEEDS the maximum allowed by the Fire Department.
- ( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- ( ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- ( ) 6. Site plans are approved, as drawn.
- (X) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Pat Keller, 12-29-88  
Planning Group  
Special Inspection Division

NOTED & APPROVED:  
Fire Prevention Bureau

/s/



Dennis F. Rasmussen  
County Executive

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

January 31, 1989

COUNTY OFFICE BLDG.  
111 W. Chesapeake Ave.  
Towson, Maryland 21204

000

MEMBERS

Bureau of Engineering  
Department of Traffic Engineering  
State Roads Commission  
Bureau of Fire Prevention  
Health Department  
Project Planning  
Building Department  
Board of Education  
Zoning Administration  
Industrial Development

Mr. Daniel L. DiPeppe  
1819 Middleborough Road  
Baltimore, MD 21221

RE: Item No. 192, Case No. 89-315-A  
Petitioner: Daniel L. DiPeppe  
Petition for Zoning Variance

Dear Mr. DiPeppe:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development of plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

*James E. Dyer*  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:dt

Enclosures

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
County Office Building  
Towson, Maryland 21204  
(301) 887-3554

January 17, 1989



Dennis F. Rasmussen  
County Executive

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers 174, 192, 202, 204, 206, 208, 211, 212, 213, and 214.

*Michael S. Flanagan*  
Michael S. Flanagan  
Traffic Engineer Associate II

MSF/lw

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines  
Zoning Commissioner  
DATE: December 20, 1988  
FROM: Mr. Robert W. Sheesley  
SUBJECT: DiPeppe Property, 1819 Middleborough Road  
Petition for Zoning Variance - Item #192

RECEIVED  
DEC 23 1988

ZONING OFFICE

Subject property is located at 1819 Middleborough Road. The site is within the Chesapeake Bay Critical Area and is classified as Limited Development Area.

The applicant has requested a zoning variance to allow a building line setback of 40 feet in lieu of the required 25 feet and 50 feet respectively, and to amend the Final Development Plan Resubdivision of a part of lot 215 of "Middleborough", lot No. 1-A for same. The building exists and no new construction is proposed.

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

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<COMAR 14.15.10.01 O>

The proposed development will comply with Critical Area law provided that the zoning petition is conditioned with the following requirements:

1. Four major deciduous trees or two conifer trees shall be planted and maintained on the lot. A combination of these two tree types is acceptable provided that 2,000 square feet of tree cover is provided. A major deciduous tree is estimated to cover 1,000 square feet and a conifer, 500 square feet at maturity.

Memo to Mr. J. Robert Haines  
December 20, 1988  
Page 2

2. Storm water runoff shall be directed from impervious surfaces associated with this petition to pervious areas to encourage maximum infiltration.
3. Rooftop runoff shall be directed through down-spouts and into a dry well of approved design to encourage maximum infiltration (see attached dry well design).

Upon compliance with the above requirements, this project will be approved. Please contact Mr. David C. Flowers at 887-3980 if you require additional information.

*Robert W. Sheesley*  
Robert W. Sheesley, Director  
Department of Environmental Protection  
and Resource Management

RWS:DCF:tjg

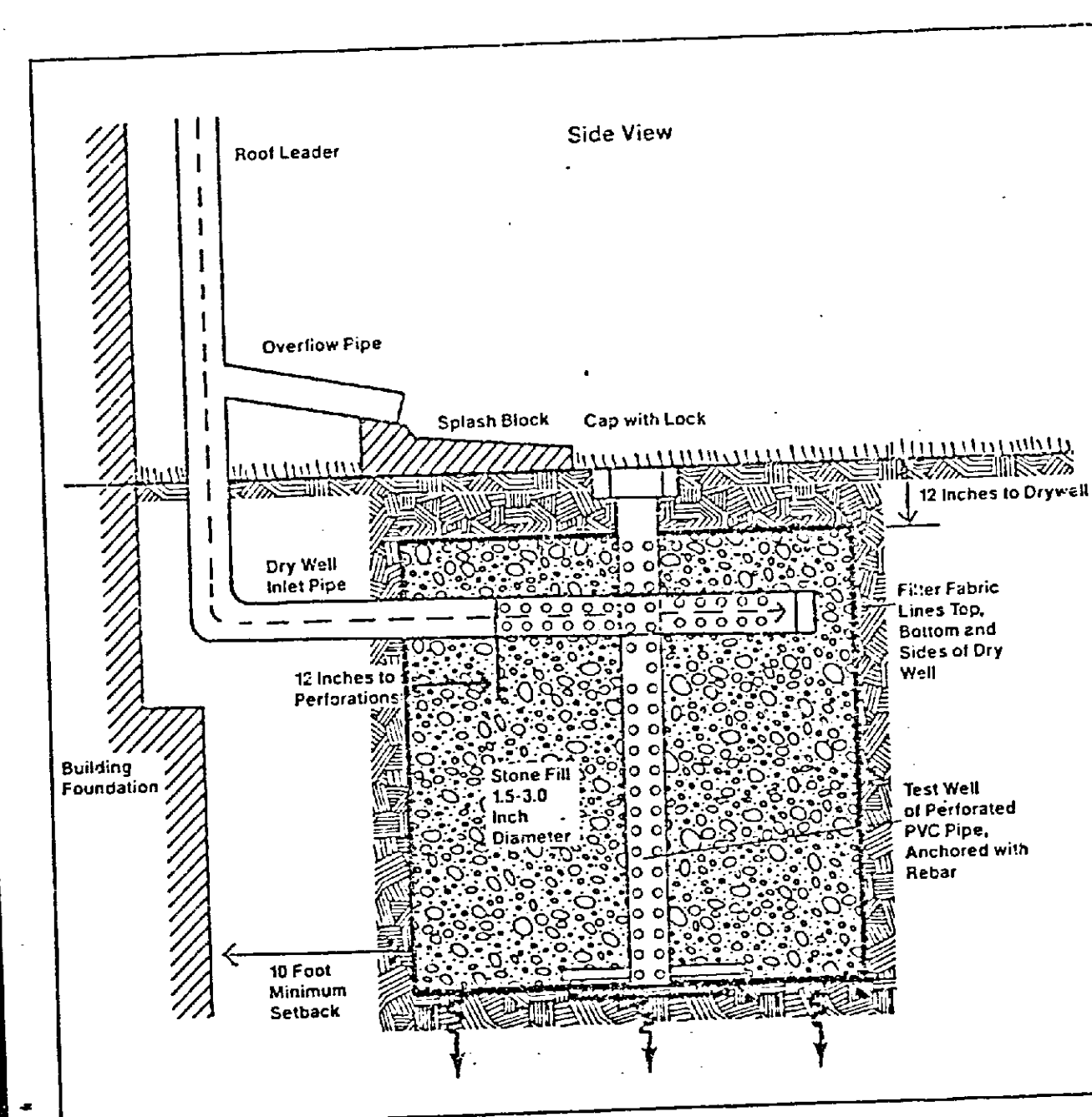
Attachment

cc: The Honorable Ronald B. Hickernell

DESIGN 4:

Dry Well Design. (Figure 5.8). Dry wells are a basic trench variation which are designed exclusively to accept rooftop runoff from residential or commercial buildings (Figure 5.8). Additional guidance on dry well design is available from Md WRA (1984). Basically, the leader from the roof is extended into an underground trench, which is situated a minimum of ten feet away from the building foundation. Rooftop gutter screens are needed to trap any particles, leaves and other debris, and must be regularly cleared.

Figure 5.8: Dry Well Design (adapted from Md WRA, 1984)



Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3553

J. Robert Haines  
Zoning Commissioner

February 22, 1989



Dennis F. Rasmussen  
County Executive

Mr. Daniel DiPeppe  
1819 Middleborough Road  
Baltimore, Maryland 21221

RE: PETITION FOR ZONING VARIANCE  
SW/Corner Middleborough and Elk Roads  
(1821 Middleborough Road)  
15th Election District - 5th Councilmanic District  
Daniel DiPeppe - Petitioner  
Case No. 89-315-A

Dear Mr. DiPeppe:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 491-3391.

Very truly yours,

*Ann M. Nastarowicz*

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

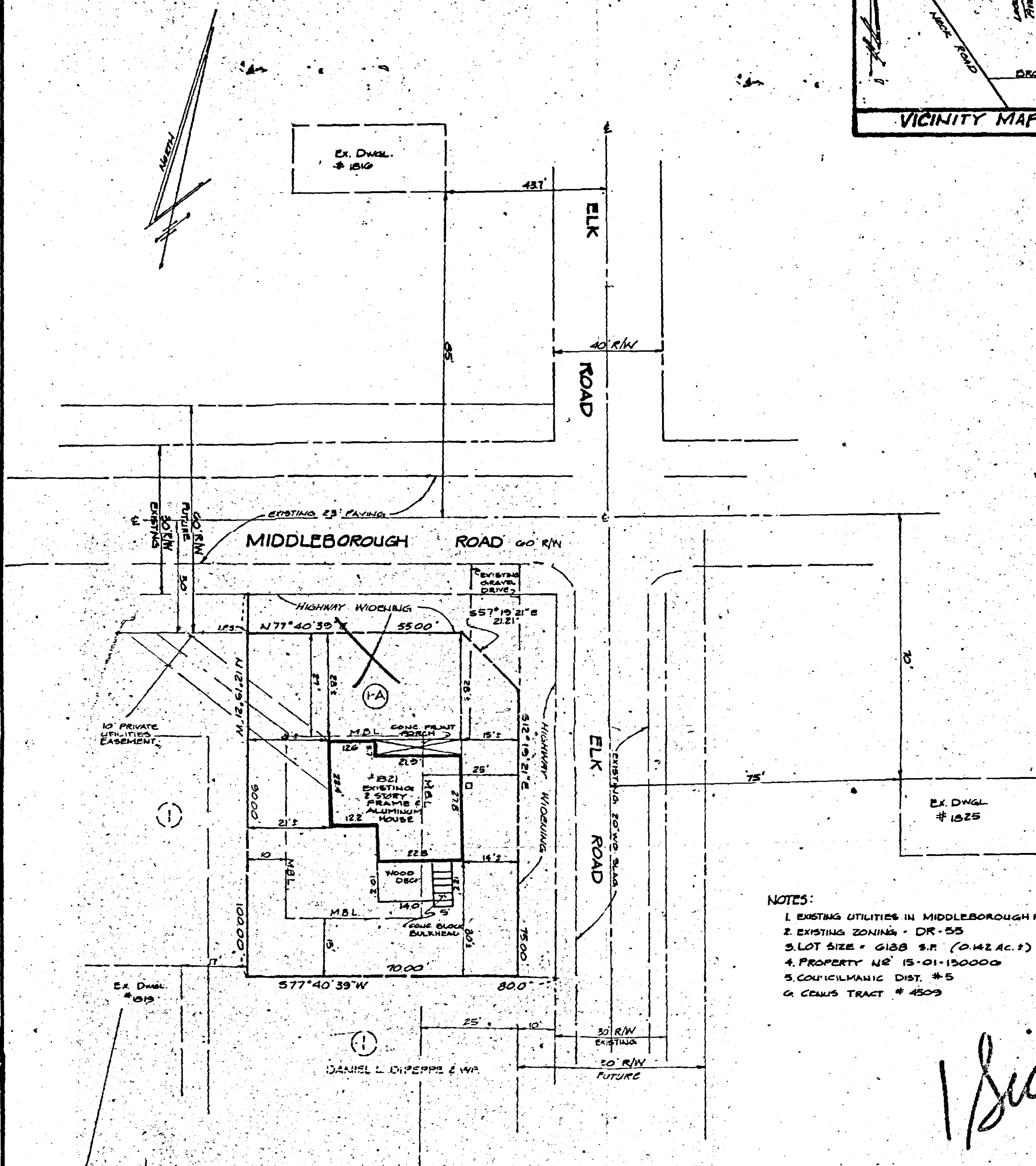
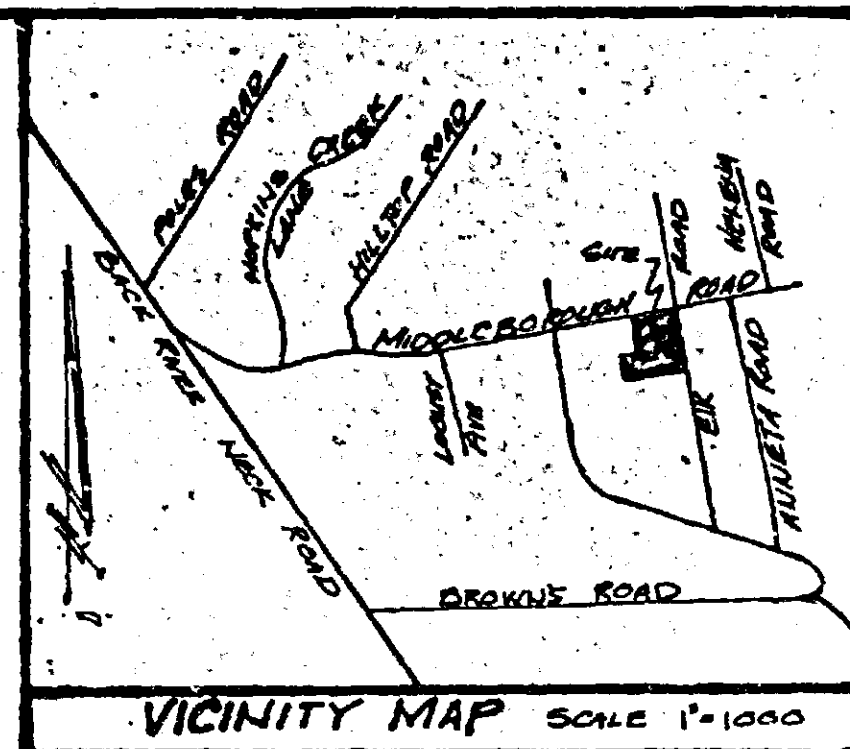
ANN:bjjs

cc: Chesapeake Bay Critical Areas Commission  
Taxes State Office Bldg., D-4, Annapolis, Md. 21404

People's Counsel

File





# NOTES:

1. EXISTING UTILITIES IN MIDDLEBOROUGH ROAD
2. EXISTING ZONING - DR-55
3. LOT SIZE - 6188 S.F. (0.142 AC.)
4. PROPERTY NO. 15-01-130000
5. COUNCILMANIC DIST. #5
6. CENSUS TRACT #4509

*1 Sign*

**TITLE REFERENCE**  
DANIEL L. DIPEPPE & WIFE  
LIBER 7177, FOLIO 642  
JUNE 9, 1986

**OWNER:**  
DANIEL L. DIPEPPE  
1849 MIDDLEBOROUGH ROAD  
BALTIMORE, MARYLAND  
21221

## **PLAT FOR ZONING VARIANCE** **FOR** **DIPEPPE PROPERTY**

IN ESSEY 1821 MIDDLEBOROUGH ROAD  
15<sup>TH</sup> ELECTION DIST. BALTIMORE, MARYLAND  
SUBDIVISION - "FINAL RESUBDIVISION OF A  
PART OF LOT 275 OF MIDDLEBOROUGH"  
"LOT 1-A"  
PLAT BOOK E.H.K., JR. 59, FOLIO 59  
SCALE: 1"=20' NOVEMBER 9, 1988

*W. T. Bohannon* 10859  
SURVEYOR  
10-24-88



**CHARLES R. CROCKEN**

AND ASSOCIATES INC.  
CIVIL ENGINEERING AND LAND PLANNING  
902 LEE AVENUE, STYREVILLE, MD 21784 765-8700

**UNAPPROVED**  
**CRITICAL AREA**  
**PETITIONER'S**  
**1**